

**SUBMISSION TO THE NATIONAL REGULATORY  
SYSTEM FOR COMMUNITY HOUSING WORKING  
GROUP**

**THE REVIEW OF THE NATIONAL REGULATORY  
SYSTEM FOR COMMUNITY HOUSING**

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## Executive Summary

Shelter WA welcomes the opportunity to provide a submission in response to the discussion paper provided by the National Regulatory System for Community Housing Working Group (the Working Group) in regard to the review of the National Regulatory System for Community Housing (NRSCH).

The Working Group will inquire into and report on matters relating to the purpose, design and challenges of the current community housing regulation, in particular the NRSCH.

Shelter WA welcomes the review of the National Regulatory System for Community Housing and the future directions for a regulatory framework for the community housing sector that is fit for purpose and sustainable for all stakeholders.

Shelter WA recommends

- A clear and well-designed national approach to a regulatory system for community housing is essential for the long-term viability of the sector.
- Independent mechanisms for tenant complaints and disputes, as well as tenant participation.
- An independent and autonomous Regulator that is equipped with legally enforceable powers in cases and instances of non-compliance.
- Support for providers to meet regulatory requirements and providing them incentives to grow.
- Data collection to enhance benchmarking and comparability.

## Shelter WA

Shelter WA is the independent peak body, based in Perth, Western Australia, that advocates for social and affordable housing and ending homelessness.

Our vision is that all people living in Western Australia have housing that enables them to thrive.

Shelter WA brings together a strong coalition committed to diverse and affordable housing choice for all. With a focus on housing for people on low to moderate incomes and groups that experience housing insecurity.

Shelter WA undertakes research and policy development, engagement, and advocacy to drive solutions to build an effective housing system and alleviate housing-related poverty.

Housing unlocks opportunity, enhances health and well-being, provides access to education and employment options. It enables people to fully participate in community life. We believe housing is a basic human right. Everybody has a right to a place to call home.

**Our Vision:** All people living in Western Australia have housing that enables them to thrive.

Having a safe, secure and stable place to call home is something which many of us take for granted, but this basic human need remains out of reach for some of the most vulnerable members of our community in Western Australia and nationally.

The social housing system is a government and community housing provider sector response to housing demand from low-income households. They are often unable to obtain safe, secure and affordable accommodation in the private housing market, and who would be a risk of homelessness without non-market housing provision.

Social housing is affordable rental housing supported by the government and community housing sectors to assist people who are unable to afford or access suitable accommodation in the private rental market. It includes public housing, state owned and managed Indigenous housing (SOMIH) and community housing. Public housing is owned and managed by state and territory governments, while community housing is housing that is either owned or managed by not-for-profit community sector organisations.

## Community housing in Western Australia

According to the latest data available, there are 41,683 social housing dwellings in Western Australia.<sup>1</sup> Of that total, 80 per cent are owned and managed by the State Government through the Department of Communities.

The remaining 20 per cent are managed by approximately 200 community housing providers throughout Western Australia with the largest 40 of those providers managing 70 per cent of total housing stock.

Although there are approximately 200 individual community housing providers (CHPs) in WA, the majority of community housing providers are small, managing less than 10 properties coupled with a small number of large providers managing the majority of the stock in the system. This means that many CHP organisations, particularly smaller ones do not self-identify as community housing providers. Rather they identify as, for example, disability service providers who became housing providers in order to meet client needs and the existing demand.

According to the *National Social Housing Survey 2018: Key results* (hereinafter: Key results)<sup>2</sup> released in February 2019 by the Australian Institute of Health and Welfare (AIHW), there are currently 12,983 people living in community housing in Western Australia.

Following on from the key results, mainstream community housing in Western Australia includes 7,847 dwellings, which makes up 17.7 per cent of the sector; while Indigenous

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<sup>1</sup> Productivity Commission, Report on Government Services 2018.

<sup>2</sup> Australian Institute of Health and Welfare 2019. National Social Housing Survey 2018: Key results. Cat. no. HOU 311. Canberra: AIHW.



Community Housing Organisations (ICHOs) include 2,649 dwellings, which is a market share of 6 per cent.

## Importance of Community housing in Western Australia

Community housing in Western Australia forms an integral part of the provision of affordable housing within our community.

AIHW (2019) suggests, that the number of public rental housing households has decreased, while over the same period, the number of community housing households has more than doubled.

These changes reflect a gradual, but steady shift of policy focus towards growing the community housing sector and transferring ownership or management of public rental housing stock to community housing organisations. This is in the absence of a clear policy or growth strategy by the WA Government.

The shift in the distribution of housing stock reflects strategies to grow the community sector, as community housing can often provide more flexible and innovative affordable housing options and respond to tenant issues and concerns in a more agile manner.

In addition to this, research demonstrates that community housing providers are more efficient and effective at the provision of services and affordable accommodation.

According to AIHW (2019), a higher proportion of community housing tenants in Western Australia were satisfied with the overall services provided by their housing organisation (85 per cent) ahead of tenants in public housing (76 per cent). In most cases, the dwelling condition was the most important factor in tenants' dissatisfaction.

Nevertheless, not all tenants in social housing live in housing that has adequate living conditions and without structural problems. However, the proportion of tenants in community housing seems to be lower (33 per cent) than for tenants in public housing (50 per cent).

Furthermore, maintenance is a major issue. Only 69 per cent of tenants in public housing in Western Australia were satisfied with the day-to-day maintenance services provided by their housing organisation. 79 per cent of community housing tenants though were satisfied with maintenance services provided to them.

Overall, this shows that satisfaction in community housing is higher than in public housing according to research, and lends weight to the argument that community housing providers are better placed to manage housing stock than state and territory agencies

Finally, these results highlight the need for adequate, effective and efficient regulation of the community housing sector, that enables community housing providers to continue their provision of accommodation to those households that would otherwise be unable to access safe, secure and affordable accommodation. It also demonstrates that we must also give



community housing providers the opportunity to operate effectively, grow their capacity to meet the outstanding existing demand and that into the future.

## Unique position of community housing regulation in Western Australia

In order to understand the issues and challenges that community housing providers are facing within the current regulatory framework, it is important to outline the characteristics of the regulatory framework for community housing providers in Western Australia and how this might be different to the National Regulatory System for Community Housing (NRSCH).

As the Discussion Paper pointed out, the Western Australian Community Housing Regulatory Framework (the Framework) commenced in April 2017. This means Western Australia only has a very limited time and experience with the current regulatory framework. The Framework is, in contrast to the NRSCH, a policy-based administrative system, however in its core it is consistent with the NRSCH.

The Framework is outcomes-focused and adopts a risk-based tactic to monitor and respond to risks, that could potentially have negative consequences for tenants, investors, community housing assets and the overall reputation of the sector.

The Framework is managed by the Community Housing Registration Office (CHRO) and has the objectives of the NRSCH as its core foundations.

The CHRO is managed and overseen by the Community Housing Registrar, however its functions are limited to regulatory activities, such as monitoring the compliance of registered providers with the Framework and providing information and advice regarding regulatory requirements and processes.

Therefore, the current regulatory framework for community housing in Western Australia is not part of the National Regulatory System for Community Housing, however it is strongly aligned with the principles of the NRSCH.

## Issues and challenges with the current regulatory framework

The current set-up of the Community Housing Regulatory Framework in Western Australia seems to impose obstacles and challenges of a varying degree on community housing providers, which is at times preventing them to operate more efficiently and effectively.

### ***Design of the current regulatory framework***

The intention and aim of the current regulatory framework for community housing in Western Australia was to ensure a graduated approach to registration and compliance, in line with the complexity and size of the individual community housing provider.

Feedback from our members is that, unfortunately, some aspects and measures of the regulatory framework are not operating as well as envisaged.



Firstly, confusion is arising from the design of the tier structure, as it has been reported in consultation sessions with community housing providers. The tier structure is being misinterpreted, often by third parties, including investors, and occasionally even government agencies, seeing it as a community housing provider performance ranking system, with Tier 1 community housing providers regarded as more viable and capable.

Currently, there are no strict obligations on housing providers to be registered under the WA Community Housing Regulatory Framework. However, the Department of Communities prefers to see assets in the hands of registered providers and has the discretion of making registration a precondition for receiving funding or delivering funded government housing services.

Due to the current voluntary nature of registering to be part of the regulatory framework for community housing in Western Australia, many community housing providers question the benefits of being part of the regulatory framework and going through the registration process.

Having an onerous registration process which requires significant financial and personnel input, and often demanding changes to operational and constitutional set-up of housing providers, and the ongoing costs of remaining a registered provider, is putting tremendous expense and inconvenience on community housing providers.

Trading-off the costs and benefits of being a registered provider under the WA Community Housing Regulatory Framework often leads housing providers questioning the viability of registration. The lack of registered community housing providers under the WA regulatory framework also draws attention to the difficulties and burden associated with becoming a registered provider and the indiscernibility of benefits and advantages.

Another concern, that was pointed out during Shelter WA's consultation with the sector, was that there does not seem to be a distinct separation of the regulatory and contract system within the Western Australian government, which means that registrations and contracts are administered by the same actors, which could lead to potential conflicts and issues.

As pointed out in the Discussion Paper, one of the regulatory purposes of not only the NRSCH, but also the WA Community Housing Regulatory Framework, is to protect vulnerable tenants and improve tenant outcomes.

Regulating the sector can contribute to ensuring governments and tenants that community housing providers do have the organisational capacity to manage their portfolios effectively.

In addition to this, regulation can also contribute to a framework for consistent service delivery and performance improvement which is important for tenant outcomes.

However, what is overlooked in the WA Framework is the possibility for tenant participation, which is closely linked to improving tenant outcomes.

Currently, there are no options for tenants to participate within the regulatory framework in Western Australia. During Shelter WA's consultation, it became apparent that stakeholders



believe that a nationally consistent scheme would be more progressive and beneficial for tenants, particularly due to the fact, that the national scheme offers them statutory powers in cases of complaints and actions, which is not available in a policy-based regulatory framework, as it is the case in Western Australia.

Finally, there seems to be confusion around the scope of the current WA Community Housing Regulatory Framework and whether public housing should be under the same obligations and regulations as community housing providers.

Currently, local government and state government agencies are excluded from this Framework. The rationale for this is, that these entities are already governed by a range of existing statutory requirements and subject to transparent requirements to account for decisions on the use and development of publicly funded services and activities. However, this option does not have the tenant outcomes at heart.

Following on from this argument though, one could reason, that this applies to many housing providers within the community housing sector too. As pointed out, there is a variety of organisations, that work across a multi-sectoral spectrum. For instance disability service providers, that verge into the housing sector in order to provide adequate accommodation to their clients. These organisations, just like public housing, are already subject to other statutory and regulatory measurements, however in order to become a registered provider under the WA framework, they still have to go through the extensive registration process which is costly and takes up substantial time.

This further validates the lack of a nuanced understanding of the community housing sector and the multiple facets and structures that organisations operate within.

#### *Western Australia's position within a national context*

Through consultations that Shelter WA facilitated with community housing providers and other relevant actors within the sector, it is apparent, that many consider the fact, that Western Australia has their own regulatory framework for the community housing sector as a disadvantage.

Due to the fact, that Western Australia opted out of the data collection process that was incorporated into the NRSCH, many WA community housing providers pointed out, that there is no national comparability or benchmarking opportunities, or even inter-state comparability, which can in the worst-case, lead to a lack of consistency across the state and nationally.

Having the option of benchmarking and comparability, would not only be beneficial for capacity building, but also enhance quality assessment and improvements within community housing providers. This in theory should also lead to better outcomes for tenants.

Another aspect, that was mentioned, was since Western Australia has its own, separate regulatory framework for community housing, could in fact create funding insecurities amongst the community housing providers in Western Australia. This is particularly important



in the context of the National Housing and Finance Investment Corporation as Western Australian community housing providers may be considered elementary and not sophisticated. This can potentially impact investor funding as well.

## **Future of community housing regulatory framework in Western Australia**

Given the presented issues and challenges that community housing providers in Western Australia are facing within the current regulatory framework, it is apparent that a review of the current regulatory measures for community housing in WA are necessary.

The starting point is to have a common understanding of the purpose and aim of having a regulatory framework for the community housing sector.

Shelter WA recommends that the aim of any future regulatory framework for the community housing sector must consider:

- Risk management, encompassing the following areas: finance, governance, client outcomes, service profile and business direction;
- Responding to the diversity of the community housing sector;
- Protecting vulnerable tenants and improve tenant outcomes providing a voice for tenants in terms of a dispute and complaint mechanism; and
- Demonstrating capacity and viability for housing providers.

From consulting with our members and stakeholders, it is clear that there is strong support and need for one national regulatory system with an independent office in each state.

The Regulator should have its own independently appointed Board, autonomous from the respective State governments, and equipped with legally enforceable powers in cases and instances of non-compliance.

This will not only guarantee consistency in the regulatory approaches across Australia, but also the opportunity for community housing providers to enter markets in other States without added regulatory burden.

In addition to this, having an independent office that manages the regulation of community housing providers in Western Australia, would alleviate the potential issues that might arise when contracting and funding are administered by the same body that is regulating the community housing sector, and would in turn promote transparency and accountability.

An important aspect that must be taken into account, is that there will have to be a certain degree of realism from the regulatory side. It is crucial, that the future regulator understands how community housing providers operate, as currently there is a lack of acknowledgement of the pressures and potential misalignment with other regulatory measures and frameworks that community housing providers must comply with.

Furthermore, as already mentioned, the work and operational scope of many community housing providers in Western Australia goes beyond just the provision of accommodation and





accompanying services. Many housing providers started off by being specific services providers, for instance disability service providers, who then in turn became housing providers in order to meet their client's needs.

Shelter WA highlights that it is crucial that a future regulatory framework acknowledges the services that community housing providers deliver aside from the pure housing and maintenance component.

Even though Shelter WA is recommending and advocating for a single national regulatory framework for the community housing sector, it is still of utmost importance that the future regulatory framework takes into account local and geographical features and concerns of Western Australia.

Finally, there should be discussion on the scope of the future regulatory framework and the extent to what housing providers will be subject to in the regulatory measures. Anecdotally, members of Shelter WA argue, that in order to create consistency, fairness and accountability, the future regulatory framework should not only apply to community housing providers, but also to public housing.

## Conclusion

Shelter WA appreciates the opportunity of providing the NRSCH Review Working Group with this submission outlining the challenges that community housing providers are facing with the current regulatory framework for the community housing sector in Western Australia; and the vision of how an effective regulatory framework for this sector could look like and what elements it should encompass.

It is undeniable, that a clear and well-designed national approach to a regulatory system for community housing is essential for the long-term viability of the sector.

However, the regulatory framework must operate in a flexible manner, in order to strengthen the community housing sector and enhance innovation. Furthermore, the utmost aim of the regulatory framework should be to support organisations within the community housing sector and provide incentives to grow- not only for the community housing providers themselves, but also for their clients.